IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 16440 of 2007(F)

AGAINST THE ORDER IN EP.268/05 IN
OS.584/1987 of PRL.M.C.,KOZHIKODE-II

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PETITIONER:

P.M.RAMACHANDRAN NAIR,
S/O GOPALAN NAIR, AGED 71 YEARS,
MANGADATHODY HOUSE, RAMANATTUKARA VILLAGE,
FAROOK COLLEGE P.O., KOZHIKODE DISTRICT.

BY ADV. SRI.B.N.SHIVSANKAR

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
THE GOVERNMENT PLEADER,
HIGH COURT OF KERALA.

2. CHERUKATTU MADAVIKUTTY AMMA,
W/O ACHUTHAN NAIR, UMA MANDIRAM,
MANJERI, MALAPPURAM DISTRICT, KERALA.

3. C.UMADEVI,
UMAMANDRIRAM,
MANJERI, MALAPPURAM DISTRICT, KERALA.

4. C.GOPALA KRISHNAN,
19/1777, INDIAN BUILDINGS,
NEAR PUSHPA THEATRE, KOZHIKODE DISTRICT,
KERALA.

5. C.INDIRA,
UMAMANDIRAM, MANJERI,
MALAPPURAM DISTRICT, KERALA.

6. C.GANGADHARAN,
UMAMANDIRAM, MANJERI, MALAPPURAM DISTRICT,
KERALA.

7. C. RAVINDRANATH,
UMA MANDIRAM, MANJERI, MALAPPURAM DISTRICT.

8. C. VIJAYA GOVINDAN,
UMA MANDIRAM, MANJERI, MALAPPURAM DISTRICT.

9. C. BHARATHI,
GASANAJYA, NO.2, SUNRISE COLONY, CHOLA NAGAR,
R.T.NAGAR P.O. BANGALORE-86.

10. C. CHANDRASEKHARAN,
UMA MANDIRAM, MANJERI, MALAPPURAM DISTRICT.

11. C. CHANDRAMOHAN,
UMA MANDIRAM, MANJERI, MALAPPURAM DISTRICT.

12. C. SURYA PRABHA, W/O.P.C.LAKSHMANAN,
THIRUVATHIRA HOUSE NO.56, GOLDEN ENCLAVE,
THOTTADA, KANNUR.

R1 BY GOVT. PLEADER R. BINDU.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 16440 OF 2007 F

Dated this the 30th May, 2007.

JUDGMENT

This writ petition is preferred to stay the execution proceedings in E.P.268/2005 in O.S.584/87 before the Munsiff's Court, Kozhikode, pending disposal of I.A.Nos: 3/2007 and 9/2007 before the Appellate Tribunal, Kannur and to issue a writ of certiorari to quash Ext.P5 order dated 30.3.2007.

2. Heard the counsel.

3. It is submitted that the decree is obtained on the basis of a certificate of purchase which is nonest under law and is vitiated by fraud and, therefore, the learned counsel would submit that the delivery may be deferred till the matter is disposed of by the appellate authority. A perusal of the records would reveal that the civil court decree has become final and the matter has reached the Apex Court and the Apex Court had dismissed the SLP. So, it is that decree that is put into execution. The other questions need not detain as nonest in law. If there is any other remedy for the party to get the said decree passed by the civil court as invalid, there are provisions in law which enables the party to get restitution of the property. So, I do not want to delay the execution of the

decree which has been granted by the court. Therefore writ petition lacks merit and is dismissed.

M.N.KRISHNAN
Judge

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